

DISCIPLINE

The most important and on-going mission of the State Bar of California's discipline system is to protect the public, the courts and the legal profession from those lawyers who fail to adhere to their professional responsibilities. The State Bar of California has been in existence for over 73 years as a public corporation and as the administrative arm of the California Supreme Court in matters involving the admission, regulation and discipline of attorneys. During this entire period, the State Bar has been responsible for the receipt, investigation, prosecution and hearing involving complaints against lawyers.

As the State Bar moves into the twenty-first century, it continues to redefine and retool its disciplinary system to further enhance public protection, while at the same time developing and implementing specific programs to assist attorneys in correcting minor transgressions at the earliest possible moment; detecting and preventing potential problems; providing increased remedial and educational programs to assist those attorneys who suffer from problems of substance abuse; targeting and prosecuting the most egregious offenders; offering the public realistic expectations of what the attorney discipline system can accomplish; and utilizing its resources in the most efficient and cost effective way possible.

After the virtual shut down of the State Bar in 1998, the Supreme Court ordered a special fee to revive the discipline system in 1999. The effects of the rebuilding process within the Office of the Chief Trial Counsel accelerated in the year 2000 with the continued addition and training of new attorneys, investigators, paralegals and support staff, coupled with the full implementation of the recommendations of the Special Master, retired Justice Elwood Lui. Consolidation of pending litigation matters, prompt and meaningful participation by judges of the State Bar Court in the early resolution of matters prior to a formal filing, and the revised Statement of Disciplinary Priorities which set forth the prosecutorial discretion to be exercised by attorneys, all led to a significant reduction in the overall number of pending matters, as well as a steady, downward reduction in the statutory backlog of cases

which were open.

In March 1999, when the State Bar's discipline system opened up again, the complaint inventory stood at over 8,000 open matters, with approximately 2,200 matters in statutory backlog status. During the year 2000, the number of open complaint matters were significantly reduced to less than 5,100, with approximately 1,340 matters in statutory backlog status.

Although the number of cases filed in the State Bar Court in 2000 increased significantly from the volume of cases filed in 1998 and 1999, the Court's total caseload remains below pre-1998 levels. There was a significant increase during 2000 in the number of case dispositions by both the State Bar Court and the Supreme Court, based upon the State Bar Court's recommendations. In addition, the State Bar Court reduced the average pendency of its proceedings in 2000 to less than six months.

Commencing in June 2000, the Supreme Court's Applicant Evaluation and Nomination Committee conducted the recruitment, evaluation and appointment process for five State Bar Court judge positions, culminating in the appointment or reappointment of judges by the Supreme Court, the Governor, the Speaker of the Assembly and the Senate Committee on Rules in October and November. The State Bar Court provided for a smooth judicial transition, assisting the departing judges with the completion of pending matters and providing a comprehensive orientation and training program for the new State Bar Court judges.

In 2001, the California attorney discipline system looks forward to further increasing public protection through the creation and implementation of innovative discipline programs to more effectively deal with those matters which may not result in the imposition of formal discipline, but which do reflect poorly upon the legal profession as a whole.

OFFICE OF THE CHIEF TRIAL COUNSEL

The State Bar Board of Governors, through its Board Committee on Regulation and Discipline, has oversight responsibility for the Bar's disciplinary activities. The Chief Trial Counsel, who reports directly to the Board Committee on Regulation and Discipline pursuant to statute, is responsible for the overall structure, goals and management of the Office of the Chief Trial Counsel. In implementing this statutory authority, the various disciplinary units within the Office screen, review, analyze, investigate and prosecute allegations of attorney misconduct.

Intake

The Intake unit is generally the initial contact point for a member of the public to initiate a complaint against an attorney. In many instances, the unit provides membership information and also responds to general inquiries concerning attorneys or various State Bar programs. The vast majority of these initial contacts are made through the Office's toll-free 800 telephone line (1-800-843-9053). During the year 2000, there were 109,259 calls received and handled by staff within the Intake unit during its four hours per day of operations.

The Office of the Chief Trial Counsel has developed an extensive voice tree of information where many callers on the 800 line can receive "self-help" information that allows them to solve problems on their own. This phone tree system reduces or eliminates the need for the public to directly access staff within the unit. The technology includes pre-recorded messages on various topics and provides answers to the most frequently asked questions. It also allows the caller to order a complaint form without speaking directly to a staff person, freeing up the complaint analysts to receive and handle callers with more complex issues.

The State Bar's Internet web site, (www.calsb.org) contains extensive information on the attorney discipline system in California, along with providing a mechanism for downloading the attorney complaint form for those who desire to do so. During the coming year, the State Bar will evaluate whether the e-mail filing of attorney complaints will be allowed, thus eliminating the current necessity for mailing the form and attachments.

Attorneys assigned to the Intake unit conduct an initial evaluation of all matters entering the discipline system to determine if a violation of the State Bar Act or California Rules of Professional Conduct is involved. Utilizing the Statement of Disciplinary Priorities, Intake's attorneys decide which

complaints are forwarded to Enforcement for formal investigation and/or prosecution and which matters are processed within the Intake unit by complaint analysts.

The Office of the Chief Trial Counsel recognizes that many matters entering the system do not rise to a level warranting formal discipline. As a result, a very important function of the Intake unit is to identify, at the earliest possible moment, cases for appropriate non-disciplinary disposition. Utilizing the Statement of Disciplinary Priorities as a guide, this allows low priority matters to be given a prompt resolution, clears them out of the discipline system with a minimal use of investigative or prosecutorial resources, and allows the overall resources of the Office to focus upon the most egregious cases. As a result of this process, the number of inquiries that are opened and advanced to complaint status are on a downward trend.

Complaint Intake				
	1997	1998	1999	2000
Total Communications	138,239	49,662**	91,000*	109,259
Inquiries	15,164	8,040	8,405	10,846
Inquiries/reportable actions advanced to complaint status (Inquiry number next chart)	5,811	1,876	2,055	4,033
Average pendency of days for resolved inquiries	N/A	N/A	N/A	32
Average pendency of days for open inquiries	N/A	N/A	N/A	62
*Average for year. Complete call records were not available through all of 1999.				
** Represents January to June 1998.				

Inquiry Resolution				
	1997	1998	1999	2000
INV: Inquiry advanced to investigation (does not include reportable actions)	5,189	1,608	1,639	2,889
PRG: Purged, complaint form not returned	446	98	1	0
RSV: Matter resolved between complaining witness and respondent	757	259	378	210
RSN: Resigned charges pending	166	103	98	157
CEQ: Coding errors	0	0	5	0
NMT: No merit	656	352	337	596
NSF: Insufficient evidence	4,061	2,027	2,917	3,354
DSB: Disbarment in separate matter	41	15	31	47
CWF: Complaining witness's failure to cooperate	78	40	262	310
ARB: Fee Arbitration matter	425	235	548	585
NSP: Not sufficient proof	1,316	666	653	1,280
NCW: Unable to locate complaining witness	2	8	39	61
DPC: Duplicate complaint	135	40	135	116
REF: Referred	0	1	29	17
COM: Closed with communication letter	130	71	111	84
LJR: Lack of jurisdiction	267	167	96	119
DTW: Death of complaining witness	2	0	0	1
DTH: Death of respondent	21	13	19	27
CRI: Matter being monitored as a criminal conviction	7	2	12	5

ERR: Error	45	11	33	54
FAM: Family Support referral	5	4	9	3
MED: Insufficient patient/client information received	253	98	310	143
(continued on next page)				

Inquiry Resolution (continued)				
	1997	1998	1999	2000
POI: Pending investigation	3	0	0	0
RPT: Monitored as reportable action	16	11	0	2
ROF: Return of file letters sent	478	199	382	467
HTO: No complaint articulated	297	113	125	77
DIR: Directional Letter	297	113	1	0
RSC: Resource Letter	--	--	388	310
DBT: Debt Letter: witness fees, court reporter	0	3	0	44
ADR: Alternative Dispute Resolution	0	0	0	0
ROL: Rule of Limitation closure	72	42	49	39
AIP: Incivility program	1	2	0	0
TRM: Termination	1	0	0	0
FAR: Fee arbitration award referral	5	3	14	8
SUB: Substance abuse program	106	0	18	38
DSL: Decline	0	0	0	4
REF: Referred	0	0	12	17
CCC: Criminal conviction complaint	0	0	444	316
TPS: Third-party service provider	0	0	30	6

EXW: Expert witness	0	0	48	11
CSR: Certified court reporter	0	0	45	2
RSJ: Releases/Satisfaction of Judgment	0	0	12	2
LOZ: Lozada decision	0	0	5	6
NCO: No communication by respondent	0	0	5	0
PPR: Pre petition for reinstatement	0	0	5	13
TOTAL	15,308	6,422	9,245	11,402

The attorneys in the Intake unit consider the following in assessing the potential alternative dispositions for an accused attorney:

- ' The member's prior disciplinary history;
- ' The existence of other open inquiries/complaints against the member;
- ' The seriousness of the alleged misconduct;
- ' The degree of client harm as a result of the alleged misconduct;
- ' The member's cooperation in evaluating the complaint;
- ' The likelihood of further harm to the public if the alleged misconduct goes unchecked.

The following diversion programs and/or dispositions were utilized during the year 2000:

- ' State Bar Ethics School - An eight hour program which focuses upon general principles of professional responsibility and law practice management and is designed to educate attorneys in methods they can utilize to avoid complaints being made to the State Bar.
- ' State Bar Client Trust Accounting School - A four hour program designed to provide practical information to attorneys on the proper maintenance and handling

of client trust accounts.

- ' Attorney Substance Abuse Program - Designed for identification and referral of first time Driving Under the Influence (DUI) convictions and other substance abuse problems not involving convictions, with referral to the Lawyers Personal Assistance Program.
- ' Agreement In Lieu of Discipline [Business and Professions Code Section 6068 (l)]- This is an agreement between the State Bar and the accused attorney as to facts and conclusions, and the attorney agrees to comply with certain educational and/or rehabilitative conditions aimed at eliminating or reducing future misconduct.
- ' Resource Letter - This is a letter directed to an attorney advising him/her of the various informational resources which can assist in avoiding future problems and/or the filing of further complaints by clients and others.

The following programs which were under consideration, review and initial development during 2000, will continue to enhance and expand the existing alternatives to discipline once they are fully implemented in 2001:

- ' The Attorney Complaint Resolution Program - Utilizing attorney volunteers as facilitators, the program will provide a forum and mechanism for members and their clients to informally resolve disputes which may arise during the course of the relationship.
- ' The Attorney Diversion and Assistance Program - A formal evaluation and diversion program in which those attorneys suffering from alcohol or substance abuse can self-refer, or be referred by the Office of the Chief Trial Counsel or the State Bar Court, for professional assistance in combating the serious effects of such abuse on their practice.
- ' Reinstatement of Warning Letters and Directional Letters - Utilized prior to the shut down in 1998, the Directional Letter was issued in those matters where there was a potential for future discipline if the underlying conduct is not corrected. The Warning Letter was issued in those cases where there was a probable violation of the State Bar Act or California Rules of Professional Conduct which was minimal in nature, did not involve significant harm to the client or the public and did not involve a misappropriation of client funds.

The State Bar Ethics School and the Client Trust Accounting School, taught by attorneys within the Office, continue to be valuable remedial education tools. The State Bar Court routinely refers all

disciplined attorneys to attend one or both of the courses. Ethics School has also been included as a standard condition in Agreements In Lieu of Discipline. The Committee of Bar Examiners regularly refers Bar applicants to these schools as a condition of their admission to membership in the State Bar. Historically, less than ten per cent of all lawyers who attended these schools had a subsequent discipline complaint filed against them. A video tape of the Ethics School highlights is available to all of the members of the State Bar and the courses continue to draw large crowds at both the annual State Bar Meeting and the Section Education Institute held in the Spring.

The Chief Trial Counsel annually informs district attorneys, judges and courts, in writing, of their requirement to report certain information to the State Bar. He also advises the Federal Courts and the United States Attorneys within California that the Office of the Chief Trial Counsel will review and pursue all disciplinary and criminal conviction matters referred by them involving attorneys licensed to practice law in California. An outreach team is available to provide speakers to the various courts and conduct an educational program in a question and answer format. Both programs provide direct contacts to an attorney within the Office to answer questions about potential attorney misconduct.

In addition, the courts, attorneys, financial institutions and insurance companies have a duty to report certain specific information to the Bar. In particular, (1) attorneys are charged with reporting, among other things, lawsuits filed against them, criminal convictions, and professional misconduct in another jurisdiction; (2) financial institutions report activity in attorney client trust accounts with insufficient funds; (3) insurance companies report malpractice claims and filings and awards; and (4) courts report judicial sanctions over \$1,000, orders of contempt, and reversals of judgments based upon an attorney's misconduct. Business and Professions Code Sections 6049.1, 6068 (o), 6086.7, 6086.8, and 6091.1 pertain to these requirements.

Reportable Actions				
Reported by Banks, Courts, Insurers and Attorney Self Reports				
	1997	1998	1999	2000
Banks	3,623	4,260	4,417	3,595
Courts	245	104	149	152
Insurers	921	349	900*	307
Attorneys - self reports	173	81	97	121
TOTAL	4,789	4,713	5,563	4,175

* Estimated

In the event that a member is charged with a felony or misdemeanor, the prosecuting agency or the clerk of the court will generally advise the State Bar. The Office of the Chief Trial Counsel monitors the criminal matter to final disposition, and if a conviction occurs, the matter will be forwarded to the State Bar Court for disciplinary review. If the crime involves moral turpitude, or is a felony, the State Bar Court may issue an order placing the member on interim suspension or make a recommendation to the California Supreme Court that the member be summarily disbarred.

Criminal Case Tracking Activity		
	1999	2000
On hand beginning of the year	334	418
Received during year	235	266
Closed during year	177	206
Pending year end	392	478
Convictions transmitted to State Bar Court	80	92

The Office of the Chief Trial Counsel regularly captures and categorizes the complainants' initial allegations of misconduct into eight areas. As the following chart indicates, approximately 50 percent of the allegations were about Performance (e.g., failure to perform, delay, abandonment, or a lack/failure to communicate) and Duties to Clients (e.g. failure to turn over files or documents, or a withdrawal from employment).

Complaint Allegations				
	1997	1998	1999	2000

Performance	5,209	2,345	6,251	3,407
Handling of funds	1,626	763	2,781	1,205
Duties to Clients	2,370	908	3,084	1,464
Personal behavior	1,290	557	1,845	996
Interference with justice	1,047	369	1,421	995
Fees	1,172	541	1,690	918
Duties to State Bar	832	242	1,185	575
Professional employment	213	57	202	108
TOTAL	13,759	5,782	18,459	9,667
* Allegations were not recorded from June 1998 to March 1999. The 1999 figure represents one and a half years worth of data.				

Enforcement

Historically, Enforcement was organized into “horizontal” teams which handled all the various types of cases that came into the discipline system. With the recall of staff in March 1999, and recommendations and input from the Special Master, Justice Lui, emphasis was shifted to the creation of an organizational model which envisioned the use of specialized teams coupled with a general team. As a result of that effort, the Enforcement function in Los Angeles is currently composed of a General Investigation unit, a General Trials unit, a Speciality Prosecutions unit, and an Appellate unit, while in San Francisco the Enforcement function is performed by one combined group of attorneys, investigators and paralegals.

The General Investigation unit is comprised of attorneys and investigators who focus on the horizontal processing of the bulk of the matters which are referred for investigation and which are not otherwise referred to Speciality Prosecutions. Investigations are conducted under the direction of a deputy trial counsel who also prepares the Notice of Disciplinary Charges, conducts the 20 day conference, and participates in an Early Neutral Evaluation Conference, if necessary. If no settlement or disposition is reached, the Notice of Disciplinary Charges is filed directly with the State Bar Court and the case is then assigned to the General Trials unit for formal prosecution.

Typically, between 5,000 to 6,000 matters have been investigated annually. Business and Professions Code Section 6094.5 mandates a normative goal that State Bar investigations be completed

within six months after receipt of a written complaint and requires that the State Bar issue an annual report quantifying the pendency of open complaints at year's end. Throughout the 1990s, the number of "backlog" complaints (uncompleted investigations pending in the system for more than 6 months at year's end) had not exceeded 400. The following chart, which fulfills the reporting requirement of Section 6094.5, illustrates the dramatic effect the State Bar's fiscal crisis and staff lay-off had on the pending numbers.

Pendency of Open Complaints at Year's End				
	1997	1998	1998	2000
0-6 months	1,681	6	916	1,017
7-9 months	482	435	372	389
10-12 months	320	658	248	224
13-21 months	320	658	478	320
21 months plus	58	318	820	263
TOTAL	2,693	2,426	2,834	2,213
TOTAL PENDING MORE THAN SIX MONTHS	1,012	2,420	1,918	1,196
"Backlog" according to statutory definitions	253	2,217	1,736	1,340
Average pendency of days for open complaints	N/A	N/A	N/A	324

Average pendency of days for dismissed complaints	N/A	N/A	N/A	268
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The General Trials unit is made up of trial attorneys and paralegals. This unit is responsible for the formal prosecution of the vast bulk of the matters completed and filed by the General Investigation unit, as well as monitoring the arrest/conviction of attorneys; conducting probation monitoring and pursuing revocation of probation ; and prosecuting criminal conviction matters, Rules of Court rule 955 violations and proceedings resulting from discipline imposed in other jurisdictions.

The Speciality Prosecutions unit is made up of trial attorneys, investigators and paralegals who focus on major misappropriation cases, unauthorized practice of law, capping and/or solicitation, insurance fraud, reinstatement to the practice of law following disbarment or resignation with charges pending, reinstatement to the practice of law following two years of actual suspension, moral character proceedings involving Bar applicants, and other cases as assigned. This unit utilizes a vertical prosecution model where the attorneys and investigators work closely together; the end product is more lawyer driven; and these same attorneys are responsible for the prosecution of the underlying matter in the State Bar Court.

The Appellate unit is comprised of attorneys responsible for handling matters pending before the Review Department of the State Bar Court. It is housed in the Los Angeles Office, with additional support, as needed, from attorneys in the San Francisco Office. This unit handles both final and interlocutory appeals and is also responsible for the Office-wide training program.

The following charts reflect the dispositions of discipline cases by the Office of the Chief Trial Counsel over the past four years, and other types of litigation matters the Office worked on in 1999 and 2000.

Office of the Chief Trial Counsel Dispositions				
	1997	1998	1999	2000
Early Neutral Evaluations			33	53
Admonitions	0	0	0	0
Warning Letter	915	423	21	0
Directional Letter	601	206	6	0

Resource Letter	–	–	413 ¹	401
Agreement in Lieu of Discipline	138	82	19	35
Dismissal	3,438	2,861	2,355	2,252
Termination	810	523	340	482
Resignation tendered with charges pending	115	51	68	93
Stipulated discipline filed	99	44	36 ²	221 ³
Notice of Disciplinary Charges filed	584	248	174 ²	383 ³

Other Litigation Matters		
	1999	2000
Probation revocation matters	33	129
Rule 9-101 violation matters	38	26
B & P Code Section 6049.1 matters	7	39
Moral character matters	8	6
Rule 955 violation matters	53	97
Reinstatement matters	12	17
B & P Code Section 6007(b)(1) matters	7	0
B & P Code Section 6007(b)(2) matters	0	3

1 The Resource Letter now replaces the Directional and Warning letters.

2 These 210 filings represent 521 complaints.

3 The 221 stipulations filed represent 336 complaints and the 383 notices filed represent 717 complaints.

B & P Code Section 6007(b)(3) matters	8	3
B & P Code Section 6007(b)(2) & (3) - reactive matters	3	1
B & P Code Section 6007(c) matters	7	7
Standard 1.4 (c) (ii) matters	10	6
TOTAL	186	334

Internal Review Process

The Office of the Chief Trial Counsel has implemented an internal review process to address matters where the complainant has expressed dissatisfaction with the initial decision to close his/her complaint against the accused attorney. The file is reviewed by a different deputy trial counsel to determine if the original closure of the complaint was appropriate. If the deputy trial counsel concludes that the file was closed in error, the matter is then reopened for further investigation and/or prosecution. If the deputy trial counsel finds that the closure of the file was correct, the complainant is provided information as to how he or she may file a verified accusation against the attorney with the California Supreme Court.

Random Review of Closed Files

The Office of the Chief Trial Counsel implemented a process during the year 2000 in which cases closed by complaint analysts, investigators or attorneys are randomly retrieved and reviewed by Assistant Chief Trial Counsels who lead the Office's units to verify that the policies and procedures of the Office of the Chief Trial Counsel are being followed. In the event that potential problems are identified, educational training sessions are scheduled to address those issues. During the year 2001, random audits will take place at the end of the second and fourth quarters.

Conclusion

The Office of the Chief Trial Counsel, in close and continuing consultation with the California Supreme Court and the state Legislature, will continue to develop and implement innovative discipline and diversion programs during the year 2001, and to document the significant progress of the Office in further reducing the number and age of the open matters in the system, as well as paring the number of matters in the statutory backlog status closer to the historical averages.

STATE BAR COURT

The State Bar Court serves as the administrative arm of the California Supreme Court in the adjudication of disciplinary and regulatory matters involving California attorneys. It is the mission of the State Bar Court to hear and decide cases fairly, correctly and efficiently for the protection of the public, the courts and the legal profession. In 2000, the State Bar entered its second decade as the nation's first (and only) full-time attorney disciplinary and regulatory court.

The State Bar Court has authority to impose public and private reprovls upon California attorneys who have been found to have violated the Rules of Professional Conduct or the disciplinary provisions of the State Bar Act. The State Bar Court may also recommend the imposition of more severe discipline, such as suspension or disbarment, to the California Supreme Court. The Supreme Court either accepts the State Bar Court's recommendation, modifies it or returns the matter to the State Bar Court for further hearing.

The State Bar Court is composed of two departments – the Hearing Department and the Review Department. The Hearing Department is the trial level of the State Bar Court and is comprised of five full-time judges (three in Los Angeles and two in San Francisco). Two of the judges of the Hearing Department are appointed by the Supreme Court. The Governor, the Speaker of the Assembly and the Senate Committee on Rules each appoint one hearing judge.

The Review Department is the appellate level of the State Bar Court. The three-member Review Department consists of the Presiding Judge and two review judges. All of the judges of the Review Department are appointed by the Supreme Court.

In 2000, the State Bar Court continued to experience some residual effects from the virtual shutdown of the attorney disciplinary and regulatory system between June 1998 and March 1999. Despite the reduction of the Court's staff from 46 employees to 7 employees during the layoff period, the Court was able to dispose of more than 200 of its pending cases during that time period. As a result of these dispositions, however, the State Bar Court's caseload in both 1999 and 2000 has been only approximately one-half of its pre-1998 level.

As a result of the lower caseload, the State Bar Court reduced the size of its staff complement from 52 authorized positions in June 1998 to 37 authorized positions in 2000. Moreover, the Court has only filled those authorized vacancies as the needs of the caseload require it. As of December 31, 2000, the Court had filled only 26 of its 37 authorized positions.

During 2000, the State Bar Court achieved the following key goals and objectives:

- Provided administrative assistance to the Supreme Court's Applicant Evaluation and Nomination Committee and the applicable appointing authorities in the recruitment, evaluation and appointment of five hearing and review judge positions on the State Bar Court;
- Provided a smooth transition, and timely disposition of pending cases, for the departure of one State Bar Court review judge and two hearing judges and the arrival of three new State Bar Court hearing judges;
- Devised and conducted a comprehensive orientation and training program for the three new State Bar Court hearing judges;
- Adopted the National Center for State Courts' Trial Court and Appellate Court Performance Standards as appropriate guidelines for measuring the State Bar Court's performance;

- With funding from the Special Master's Disciplinary Fund, commenced work on the design of a comprehensive case management system for the State Bar Court to be completed in the third quarter of 2001;
- Consolidated the State Bar Court's operations to a single floor in the State Bar's Los Angeles office in order to make the Court's operations more efficient and to maximize available space for other State Bar functions or for sublease;
- Reduced the average pendency of proceedings in the State Bar Court to less than six months.
- Conducted 152 initial Early Neutral Evaluation (ENE) conferences as part of the State Bar Court's implementation of the ENE program, which is aimed at evaluating and, if appropriate, resolving attorney disciplinary proceedings prior to the filing of formal charges.
- Increased the number of final Supreme Court dispositions in disciplinary and regulatory proceedings, based upon State Bar Court recommendations, from 297 in 1999 to 526 in 2000 (an increase of 77 percent). These 526 final Supreme Court dispositions included 79 disbarments, 89 resignations with disciplinary charges pending and 212 cases involving the imposition of some period of actual suspension.

The following charts reflect the numbers of cases filed in the State Bar Court during 2000, as compared to previous years, along with all interim and final dispositions issued by the State Bar Court and the California Supreme Court:

CASES FILED IN THE STATE BAR COURT

Disciplinary Matters						
	1995	1996	1997	1998	1999	2000
Original discipline	512	525	588	254	209	434
Stipulated discipline	150	87	98	44	36	113
Conviction referral	152	127	139	73	83	96
Rule 955 violation	61	50	50	31	53	53
Rule 1-110 violation (former Rule 9-101)	37	41	34	11	44	17
Probation Revocation	60	59	41	8	34	30
Other Jurisdiction 6049.1	2	10	11	11	9	19
Subtotals	974	899	961	432	468	762

Regulatory Matters						
Arbitration Enforcement	0	5	1	2	0	4
Resignation with charges pending	101	93	115	52	69	91
Trust re practice	3	1	0	0	0	0
Inactive enrollment 6007(c)	21	30	11	2	7	7
Inactive enrollment 6007(b)	2	0	3	0	0	0
Inactive enrollment 6007(b)2	8	3	7	2	0	3
Inactive enrollment 6007(b)3	9	13	11	4	8	5
Reactive 6007(b)1	0	0	0	0	1	0
Reactive 6007(b)2	0	1	0	2	2	0
Reactive 6007(b)3	1	2	0	1	1	1
Reactive 6007(c)	0	0	0	1	0	0
Reactive Arbitration Enforcement	0	0	0	1	0	0
Standard 1.4(c)(ii)	11	11	3	12	10	6
Reinstatement	21	8	12	16	12	17
Moral Character	9	9	5	4	8	6
Lawyer Referral Service	0	1	0	0	1	0
Legal Specialization	2	0	0	0	0	1
Rule 662, Rules of Procedure	2	0	0	0	0	0
Subtotals	190	177	168	99	119	141

TOTALS	1,164	1,076	1,129	531	587	903
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STATE BAR COURT INTERIM DISPOSITIONS

Disciplinary Matters						
	1995	1996	1997	1998	1999	2000
Augment to include discipline	46	43	38	33	14	17
Conviction referral	137	116	109	57	51	73
Finding of Moral Turpitude	0	0	0	0	1	0
Grant stay of interim suspension	1	2	3	1	3	0
Grant stay of suspension	2	0	0	0	6	0
Grant temporary stay of interim suspension	20	15	9	1	2	1
Grant temporary stay of suspension	11	3	11	2	5	18
Interim Suspension	53	44	54	32	39	45
Interim Suspension and Referral	0	0	0	2	5	5
Suspension/failure to pass professional responsibility examination	120	119	73	30	70	40
Modify order	2	3	2	0	0	0
Moral turpitude not found	2	0	0	0	0	0
Remand for hearing	0	0	8	0	0	1
Terminate Interim Suspension	0	0	0	1	0	0
Transmit Final	0	1	0	0	0	0
Vacate previous order	1	0	16	0	0	0
Subtotals	395	346	323	159	196	200

Regulatory Matters						
Restrict Practice 6007(h)	15	0	1	0	3	3
Transfer Inactive 6007(d)	0	10	14	0	4	15
Transfer Inactive 6007(e)	52	46	124	121	104	137
Subtotals	67	56	139	121	111	155

TOTALS	462	402	462	280	307	355
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STATE BAR COURT FINAL DISPOSITIONS

Disciplinary Dispositions						
	1995	1996	1997	1998	1999	2000
Admonition	2	2	0	0	0	0
Deny other petitions	28	36	27	6	0	0
Deny reconsideration	2	0	0	0	0	0
Dismissal	120	152	139	120	83	45
Extend condition of reproof	1	0	0	1	0	0
Extend ordered effective date	0	1	0	0	0	0
Extend probation	1	0	0	0	1	3
Extend time to pass professional responsibility examination	91	56	42	14	46	18
Extension to comply with Rule 955	4	1	0	1	0	0
Grant/deny other requests in part	0	2	0	0	0	0
Grant temporary stay of suspension	0	0	0	8	0	0
Modify effective date of suspension	12	0	0	0	0	0
Modify order	5	1	0	33	9	28
Modify decision	0	0	0	20	0	0
Modify opinion	0	0	2	0	0	0
Modify probation	1	0	4	5	11	1
Modify stipulation	0	0	0	63	20	31
Moral Turpitude not found	0	0	1	0	0	0
No additional discipline	0	0	1	0	0	0
Private reproof	6	4	4	2	0	4
Private reproof with conditions	90	95	115	77	31	70
Public reproof	2	2	2	0	1	1
Public reproof with conditions	65	53	64	33	20	43
Set aside dismissal	0	0	1	1	1	0
Summary disbarment	3	0	6	0	5	0
Terminate conviction proceeding	1	2	1	1	1	0
Terminate interim suspension	1	10	15	9	6	3
Termination - death	6	4	8	0	1	6
Termination - disbarment	37	26	20	1	4	0
Termination - resignation	118	85	130	54	55	67
Vacate previous order	61	58	33	41	9	15
Withdrawn	1	6	6	0	1	0
Subtotals	658	596	621	490	305	335

STATE BAR COURT FINAL DISPOSITONS

Regulatory Dispositions						
	1995	1996	1997	1998	1999	2000
Decline retransfer 1.4 (V)	1	2	1	0	0	1
Decline transfer 6007(b)	1	0	3	1	1	0
Decline transfer 6007(c)	2	4	0	0	2	0
Decline transfer 6007(d)	0	1	0	0	0	0
Deny admission	0	5	5	4	2	1
Deny petition/application	2	1	1	0	2	0
Deny reinstatement	4	3	10	2	3	4
Deny petition to shorten time to file petition for reinstatement	2	0	0	0	0	0
Dismissal	2	8	6	3	8	6
Grant admission	0	1	2	2	0	1
Grant Legal Specialization	0	0	1	0	0	0
Grant petition to shorten time to file petition for reinstatement	1	0	0	0	0	0
Grant trust fund	0	0	0	0	1	0
Modify order	0	0	0	0	3	1
Restrict practice - 6007(h)	2	0	7	0	0	0
Retransfer active-Arbitration Enforcement	0	0	0	1	0	0
Retransfer active 1.4(c)(ii)	9	7	7	7	12	6
Retransfer active 6007(b)	1	1	2	3	4	0
Retransfer active 6007(c)	0	0	0	1	0	2
Retransfer active 6007(d)	1	1	0	0	0	0
Retransfer active 6007(e)	10	8	17	21	5	19
Terminate moral character proceedings	2	0	0	0	1	0
Termination-death	1	0	0	0	1	0
Termination-disbarment	0	3	2	0	0	0
Termination-resignation	0	2	1	0	0	0
Transfer inactive-Arbitration Enforcement	0	4	1	2	0	2
Transfer inactive 6007(b)	23	22	18	6	3	8
Transfer inactive 6007(c)	15	12	82	47	52	85
Transfer inactive 6007(d)	0	0	0	9	0	0
Transfer inactive 6007(e)	1	0	0	0	0	0
Vacate Previous Order	0	0	1	0	1	0
Withdrawn	5	3	4	3	2	5
Subtotals	85	88	171	112	103	141

TOTALS	743	684	792	602	408	476
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CALIFORNIA SUPREME COURT INTERIM DISPOSITIONS
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Disciplinary Dispositions						
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	1995	1996	1997	1998	1999	2000
Grant writ of review	5	0	0	0	2	0
Remand for Hearing	4	2	0	2	0	4
Subtotals	9	2	0	2	2	4

Regulatory Dispositions						
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Granted writ of review	0	0	0	0	0	0
Remand for Hearing	0	2	0	0	0	0
Subtotals	0	2	0	0	0	0

TOTALS	9	4	0	2	2	4
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CALIFORNIA SUPREME COURT FINAL DISPOSITIONS

Disciplinary Dispositions						
	1995	1996	1997	1998	1999	2000
Deny petition for review, rehearing, reconsideration	20	7	7	8	0	0
Disbarment	63	77	76	96	38	79
Summary Disbarment	0	0	2	4	2	3
Dismissal	0	0	2	0	1	8
Extend probation	4	6	3	6	1	3
Granted writ of Review	0	0	0	1	0	0
License to practice cancelled	0	1	0	0	0	0
Modify opinion	1	0	0	0	0	0
Modify order	3	1	9	0	2	0
Modify probation	11	2	0	0	4	0
Probation - no actual suspension	0	0	1	2	1	0
Resignation with charges pending	98	89	116	54	67	89
Revoke probation/actual suspension	36	16	24	13	7	14
Suspension actual with probation	2	2	3	6	3	8
Suspension actual without probation	7	8	1	3	6	3
Suspension stayed/some actual suspension with probation	291	206	276	350	120	212
Suspension stayed with conditions	0	0	3	2	2	1
Suspension stayed with probation	117	90	90	125	28	84
Suspension with conditions	15	8	12	1	5	17
Termination - death	0	2	0	0	2	0
Termination - disbarment	10	3	7	0	0	0
Termination - resignation	4	1	1	3	0	0
Vacate previous order	6	6	1	0	2	0
Subtotals	688	525	634	674	291	521

Regulatory Dispositions						
Deny petition/application	2	2	0	0	0	0
Grant reinstatement	6	4	8	5	6	5
Granted writ of Review	0	0	0	1	0	0
Subtotals	8	6	8	6	6	5

TOTALS	696	531	642	680	297	526
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CLIENT SECURITY FUND

In 1972, the Client Security Fund was established by Bar-sponsored legislation in recognition that disciplinary measures, as well as civil and criminal proceedings, were often insufficient remedies to alleviate pecuniary losses caused by a lawyer's dishonest conduct in the practice of law. Thus, the Client Security Fund is designed as a remedy for legal consumers, in addition to, but separate from discipline. While the discipline system protects the public by disciplining and removing errant lawyers from the practice of law, the fund protects the public by focusing on individual victims.

Financed by a \$40 annual assessment added to the membership dues paid by California lawyers, the Client Security Fund reimburses victims up to \$50,000 for losses due to attorney theft or an act equivalent to theft. While the number of dishonest lawyers is low, the losses suffered by clients can be devastating. The fund is a cost effective way of providing reimbursement to victims that is generally not available from any other source. Furthermore, the fund provides the legal profession with a unique opportunity to promote public confidence in the administration of justice and the integrity of the legal profession.

In 2000, the number of new applications received by the Client Security Fund returned to near historical levels. The filing rate for new applications dropped significantly in 1998-1999 due to the virtual shutdown of the discipline system during the fee bill crisis (i.e., June 1998 through March 1999). As the chart below reflects, the fund experienced an increase both in volume and output of cases in the year 2000 versus 1999. There was a 72 percent increase in the number of new applications filed, a 54 percent increase in the number of applications paid and a 43 percent increase in the total number of dispositions.

Client Security Fund					
	1996	1997	1998	1999	2000
Applications Filed	1082	1217	652	611	1049
Amounts Requested	\$12,364,000	\$12,717,000	\$7,879,000	\$6,781,000	\$10,929,000
Applications Processed	1043	1230	978	767	1095
Applications Paid	578	708	517	387	595

Amounts Paid	\$5,539,449	\$4,660,614	\$3,627,082	\$2,811,090	\$3,673,850
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In January 1999, the Conference of Chief Justices of the United States adopted "A National Action Plan for Lawyer Conduct and Regulation." One of the standards articulated in the Chief Justices' action plan requires that a client protection fund "substantially reimburse losses resulting from dishonest conduct in the practice of law." In the year 2000, the State Bar of California's Client Security Fund successfully met this standard. Of the 595 applications paid in 2000, 584 of the victims were reimbursed 100 percent of their eligible losses which represents a 98.2 percent effectiveness rate. The remaining 11 victims suffered losses that were in excess of the fund's \$50,000 maximum payment limit.

In March of 2000, a reorganization of the Client Security Fund staff that began in November 1999 was finalized. This reorganization reduced the total number of employees from 14 to 9 positions, achieving a 32 percent reduction in the annual administrative costs of operating the fund. Although reduced in size, as the statistics reflect, the newly reorganized staff was successful in maintaining productivity.

In an effort to educate clients who may not otherwise have access to information about the fund, information and brochures about the Client Security Fund program are available in English, Spanish and Chinese. In addition, since the fund's staff is culturally diverse, telephone assistance is available to callers in various languages including Chinese (Mandarin and Cantonese), Tagalog, Spanish and German.

MANDATORY FEE ARBITRATION

Pursuant to Business and Professions Code Section 6200 *et seq.*, the State Bar administers a statewide program for the arbitration of fee disputes between attorneys and their clients. In addition to processing requests for arbitration through the State Bar's own arbitration program, the Office of Mandatory Fee Arbitration is also responsible for overseeing the approximately 43 local bar association fee arbitration programs statewide. The Office provides information to all attorneys and clients concerning their respective rights and obligations under the mandatory fee arbitration program. Its fee arbitration program processes approximately 250 cases per year.

Further, the State Bar has exclusive jurisdiction to enforce arbitration awards requested by clients after an award for a refund of fees has become binding and final. Business and Professions Code Section 6203, subdivision (d) authorizes the assessment of administrative penalties and the involuntary inactive enrollment of attorneys who fail to respond to the enforcement request. The Office of Mandatory Fee Arbitration processes approximately 80 requests for enforcement each year. Both the State Bar arbitration and enforcement cases rely on a volunteer Presiding Arbitrator for procedural rulings as permitted by the rules of procedure.

The Office consists of a Director, three senior administrative assistants, and one administrative secretary. The staff handles all requests for information concerning fee arbitration, administers the State Bar's fee arbitration program and processes requests for enforcement of awards. It also staffs and coordinates the activities of the Standing Committee on Mandatory Fee Arbitration ("Fee Arbitration Committee").

The Fee Arbitration Committee reviews case law and proposes new legislation affecting fee arbitration, provides policy guidance and assistance to the local bar programs, conducts three-hour training programs five to eight times a year for fee arbitrators throughout the state, prepares written training materials for arbitrators, publishes arbitration advisories, and presents legal education courses on selected topics concerning attorney's fees and the fee arbitration program. The Fee Arbitration Committee consists of approximately 17 lawyer and public members. It reports to the Board Committee on Regulation and Discipline. All local and State Bar fee arbitration programs must obtain Board authorization for rules of procedures and any amendments made thereto.

Key Accomplishments of the Committee on Mandatory Fee Arbitration in 2000:

Arbitrator Training Programs: During the course of the committee year, the Fee Arbitration Committee organized and presented a series of three-hour fee arbitrator training programs at which free MCLE credit was offered to attorney arbitrators. A rotating panel of four Fee Arbitration Committee members present the training program, which covers a wide array of topics relevant to the fee arbitration process. In addition, a binder of materials prepared by the Fee Arbitration Committee, featuring an arbitrator handbook and extensive case law summary and index, is distributed to the arbitrators who attend the program.

State Bar Arbitrator Recruitment Efforts: The State Bar Fee Arbitration panel consists of approximately 250 volunteer arbitrators, most of whom are lawyer arbitrators. In response to a critical shortage of volunteers in certain areas of the state, the Fee Arbitration Committee engaged in efforts to recruit new arbitrators for the panel. As a result of those efforts, 34 new arbitrators were appointed by the Board to serve on the panel.

Committee Appointments: The Fee Arbitration Committee adopted a written description of committee service and appointment policy. To assist the volunteer Presiding Arbitrator with his increasing caseload and responsibilities, two Assistant Presiding Arbitrators have been appointed.

MCLE programs: The Fee Arbitration Committee presented two programs for MCLE credit at the State Bar Annual Meeting, a radio program offering MCLE credit, and a two- hour MCLE program at the State Bar's Winter Education Institute in January 2000.

Arbitration Advisories: In addition to the MCLE programs, the Fee Arbitration Committee is responsible for identifying issues of administrative or legal significance in the area of fee arbitration and developing them into written advisories. The advisories are distributed to local bar program committees and administrators for dissemination to fee arbitrators. These advisories are also posted on the State Bar's website.

Advice to Local Bar Programs: The Fee Arbitration Committee provides advice and guidance to the 43 local bar fee arbitration programs in the state on an as-needed basis. The issues and questions presented are addressed in regularly scheduled meetings of the committee. Most issues raised by the local programs are handled informally by the Office Director or the Presiding Arbitrator on an almost daily basis.

Mandatory Fee Arbitration Program					
	1996	1997	1998	1999	2000

Fee Arbitration requests filed with State Bar	220	310	177	73	166
Fee Arbitration requests assigned by Local Bar	2,687	2,570	2,000	n/a	n/a
Requests for enforcement of award filed	62	62	27	31	82
Arbitrator training sessions	5	5	3	n/a	8
Fee agreement seminars	3	3	4	n/a	2

PROFESSIONAL COMPETENCE

The State Bar’s ongoing efforts to maintain and improve the quality of legal services available in California are among its most important programs in support of public protection and the effective administration of justice.

Competency-based efforts encompass a broad cross-section of activities, ranging from recommending official ethics rules and issuing informal ethics advisories to a program providing assistance to lawyers with substance abuse and emotional distress problems.

Rules of Professional Conduct

The State Bar’s Committee on Professional Responsibility and Conduct (“COPRAC”) assists the Board of Governors by studying and providing comment on the Rules of Professional Conduct and other laws governing the conduct of attorneys.

COPRAC’s work in this area has been focused on involvement with the national study of the ABA Ethics 2000 Commission to review and amend the ABA Model Rules of Professional Conduct, through its liaisons serving on the California Coordinating Committee on the ABA Ethics 2000 Commission, including a designated liaison to the ABA Multidisciplinary Practice Commission. These efforts have involved submission of written comment on Ethics 2000 draft rule amendments and State Bar Board of Governor action on the report of the ABA Commission on Multidisciplinary Practice. COPRAC has submitted numerous written comments on draft Model Rule amendments to the ABA

Ethics 2000 Commission.

In addition, COPRAC has established a subcommittee pursuant to Board resolution to implement a legislative mandate, under Assembly Bill 2069 which was enacted in 2000, to study the topic of conflicts of interest arising from tripartite relationships between insurance defense counsel and the carrier.

Ethics Opinions

COPRAC issues formal ethics opinions as a guide to members in maintaining their ethical standards. The non-binding opinions are developed in response to questions posed by bar groups or individuals members. In 2000, COPRAC worked on the following opinions:

Opinions Approved for Distribution to the Board Committee on Regulation and Discipline **(Final Stage Prior to Publication)**

Interim Opinion No. 93-0004

Issue: Under rule 3-310(C), does a conflict of interest arise when constituent sub-entities or officials of a city (e.g., the city counsel and the mayor) seek legal advice on the same matter and the constituents' positions on the matter are antagonistic?

Interim Opinion No. 95-0010

Issue: Does the creation of a separate "firm" within a public office charged with indigent criminal defense avoid ethical issues arising out of the representation of multiple criminal defendants?

Interim Opinion No. 95-0014

- Issue: 1. What are the ethical responsibilities of a member of the State Bar who uses lawyers outside his law firm to make appearances on behalf of the member's clients?
2. What are the ethical responsibilities of the outside lawyer who makes the appearances?

Interim Opinion No. 95-0015

Issue: What ethical considerations arise from dispensing legal advice solely by telephone?

Interim Opinion No. 96-0011

Issue: Is it ethically permissible for a lawyer to: (1) advise a potential client to consider financing the legal representation by taking out a mortgage loan on the client's real property, and (2) refer the client to an independent broker who would arrange the financing, where the broker to whom the client is referred does not pay any compensation to the lawyer and the loan funds are placed in an escrow account that is not controlled by the lawyer and from which the funds are disbursed to the lawyer for fees and costs for work performed on behalf of the client?

Interim Opinion No. 96-0014

Issue: What aspects of professional responsibility and conduct must an attorney consider when providing an Internet website containing information for the public about her availability for professional employment?

Interim Opinion No. 97-0003

Issue: What ethical duties does an attorney have regarding the retention of former client's files? Is the attorney ethically required to retain the files for any specific length of time following the completion of representation.

Opinions Tentatively Approved by COPRAC

(Circulating or Recently Circulated for 90-day Public Comment Period)

Interim Opinion No. 93-0005

Issue: (1) In a proposed fee agreement for use with a new client, before any dispute has arisen between them, may a lawyer include a provision for formal mediation in the event a dispute arises between the client and the lawyer over (a) performance-related matters such as attorney malpractice or (b) fees and costs? If so, may the agreement (2) designate a specific mediation provider and process for mediation; (3) empower the mediation provider to select a neutral mediator if the client and lawyer cannot agree upon one; and (4) designate who shall bear the costs of mediation?

Interim Opinion No. 95-0005

Issue: What are the duties of an outside lawyer who simultaneously represents a corporation, and an officer of that corporation individually, when the lawyer receives information which creates a potential conflict between the lawyer's duties to the officer-client and to the corporation-client?

Interim Opinion No. 95-0019

Issue: Is a communication from a person seeking advice or assistance from a lawyer entitled to protection as attorney-client confidential information even if the lawyer accepted no engagement, gave no advice, and took no responsibility over any matter?

Interim Opinion No. 96-0012 (A)

Issue: What are the ethical obligations of an insurance defense attorney who receives separate requests from both the insurer and the insured to provide "original file" materials following completion of the case? Are there any circumstances in which the defense attorney may be prevented from disclosing to the insured any of the file materials?

Interim Opinion No. 96-0012 (B)

Issue: The obligation of an attorney representing multiple clients in the same matter to provide original file materials to each individual client upon completion of the case.

Interim Opinion No. 96-0013

Issue: What ethical considerations arise from an attorney answering legal questions from callers during a special radio talk show commemorating Law Day?

Interim Opinion No. 97-0001

- Issue:
1. What ethical constraints govern an attorney whose client has conferred upon him authority to settle, without instituting litigation, claims of the client for specific percentages of the amounts claimed, when the client has disappeared?
 2. What ethical constraints govern the attorney's right to collect legal fees from settlement proceeds when communication with the client is not possible?

Interim Opinion No. 98-0002 (A)

Issue: In the context of a civil action alleging police brutality, is a non-party police officer witness a "public officer" for the purposes of rule 2-100(C)(1) of the California Rules of Professional Conduct?

Ethics Hotline

This statewide toll-free confidential service (1-800-2-ETHICS) provides California attorneys with information and discussion on routine ethical questions. In 2000, Hotline staff answered 16,113 calls and distributed 1,187 packets of local bar association and State Bar ethics opinions to interested persons.

Publications

- **California Compendium on Professional Responsibility (Compendium).**

The State Bar publishes the Compendium, a compilation of local, state and national ethics information. It is updated annually.

In 2000, 19 Compendiums were sold and 209 updates were sold. The number of updates sold is atypically low due to late release of the update. It is expected that the year 2000 update sales will increase to approximately 700 by the first quarter of 2001.

- **California Rules of Professional Conduct and State Bar Act (Publication 250).**

Publication 250 is a convenient resource book which includes: The California Rules of Professional Conduct (past and present); the State Bar Act; California Rules of Court related to the State Bar and members of the State Bar; various statutes relating to discipline and attorneys and the duties of members of the State Bar; the Minimum Continuing Legal Education Rules and Regulations; and the Rules and Regulations Pertaining to Lawyer Referral Services (Including Minimum Standards for a Lawyer Referral Service in California). This publication is updated annually and is also available on the State Bar website.

In 2000, approximately 3000 copies of Publication 250 were sold.

- **Handbook on Client Trust Accounting for California Attorneys ("Handbook").**

The Handbook is a practical guide created to assist attorneys in complying with the record keeping standards for client trust accounts which went into effect on January 1, 1993. The Handbook includes a copy of the standards and statutes relating to an attorney's trust accounting requirements; a step-by-step description of how to maintain a client trust account; and sample

forms.

In 2000, approximately 500 copies of the handbook were sold.

- **Ethics School Program Videotape.** This video program was produced in 1994 and was designed to offer the highlights of the State Bar's Ethics School Program touching on the following four topics: formation of the attorney/client relationship; withdrawal from employment; client trust accounting; and reportable actions. The program is approved for one hour of MCLE credit in legal ethics.

Lawyers Personal Assistance Program

The Lawyers Personal Assistance Program provides members with education, confidential counseling and referrals about chemical dependency and emotional distress. The free and confidential 24-hour assistance line can be reached by calling 1-800-341-0572. In addition, the program offers MCLE credit to bar groups and law firms and has produced videotapes on chemical dependency and emotional distress. A brochure entitled "When Attorneys Need Help" is offered to MCLE providers. Workshops are offered to law firms and bar associations throughout the state. The program also offers presentations at the State Bar Annual Meeting each year.

Special Projects

Conference of Delegates Resolutions

The State Bar refers relevant Resolutions passed by the Conference of Delegates to State Bar committees for further study. In 1999, the Board Committee on Regulation and Discipline referred to COPRAC two 1998 resolutions, 8-8-98 and 8-9-98, concerning proposed amendment to rule 4-100 record keeping standards. In 2000, COPRAC conducted a study of the proposals. It is anticipated that COPRAC will submit a report to the Board Committee on Regulation & Discipline in the year 2001.

Annual Statewide Ethics Symposium

On June 17, 2000, COPRAC held a Statewide Ethics Symposium at Western State University College of Law in Fullerton. This event was made possible by grant funding awarded by The Foundation of the State Bar. The event brought together experts from all aspects of the professional responsibility field including: ethics professors, judges, ethics consultants, State Bar staff, local ethics

committee leaders, expert witnesses, and representatives of the defense bar. The symposium's scheduled topics, which were presented by an impressive array of panelists, featured: "ABA Ethics 2000: Lawyers' Duties to Society vs. Lawyers' Duties to Clients"; "Civil Practice--Rewards & Risks: Lawyer Investment in Clients"; "Criminal Law Practice--Leading Issues for Prosecutors and Defense Counsel"; "Screening"; "Alternative Dispute Resolution Ethics"; and "Multidisciplinary Practice". Each of the panels included interactive sessions providing a unique opportunity for high level discussion with the dialogue ranging from humorous to heated. In addition to the panels, the Bar's President at the time, Andrew Guilford, provided opening remarks, and then President-elect Palmer Madden served as a moderator for one of the panels.

Annual Meeting Programs

In September 2000, the Office of Professional Competence offered nine ethics and/or competence related educational programs at the State Bar's Annual Meeting in San Diego. The topics covered were: Recent Significant Developments in the Law of Lawyers; Representing Public Entities: Duties and Pitfalls; Methods for Identifying and Avoiding Conflicts; Changing Your "Stress Filter"; Chemical Dependency and Emotional Distress (four programs); Jury Reform and Strategies (co-sponsored with the American Inns of Court).

Local Bar Outreach Programs

In cooperation with local bar associations, COPRAC conducted local bar ethics programs throughout the year 2000 at various locations. The programs, which were made possible by grant funding awarded by The Foundation of the State Bar, were conducted in less populated areas of the state where live presentations were not readily available. Program topics ranged from conflicts of interest to recent developments in ethics, and were selected by working closely with local bar leaders familiar with the kinds of issues relevant for the particular legal community. The bar associations of Imperial, Kings, Sacramento, Sonoma, Stanislaus, and Tulare counties were among the groups who partnered with COPRAC to present programs.

Competence Resources on the State Bar Website

In 2000, much work was accomplished in the posting of ethics and competence related resources on the Bar's website. The following resources are now available online: posting of COPRAC draft opinions circulating for public comment; posting of a Rules of Professional Conduct Cross Reference Chart showing the history of the amendments to the rules since 1975, along with the current and former rule reference numbers and operative dates; posting of year 2000 updates to the California Rules of Professional Conduct and The State Bar Act and other provisions governing the duties of attorneys; new web pages featuring the Committee on Professional Responsibility and Conduct, the Ethics Hotline telephone research service; the online version of the *Ethics Hotliner* newsletter

(previously published in hard copy on a bi-annual basis); the Lawyers Personal Assistance Program; and the construction of an Ethics Research Area serving as a hub for the many ethics resources that are currently available.

OFFICE OF CERTIFICATION

The Office of Certification develops standards for certification programs and efficiently administers such programs. In addition to administering attorney compliance with the Minimum Continuing Legal Education (“MCLE”) program and certifying providers and activities for MCLE credit, the Office administers the following certification programs:

Foreign Legal Consultants

Under court rule, this program certifies applicants licensed to practice in foreign jurisdictions who wish to practice the law of that jurisdiction in California. There currently are 14 certified foreign legal consultants.

Law Corporations and Limited Liability Partnerships (“LLP’s”)

By statute, attorneys who wish to practice law either as a professional law corporation or a limited liability partnership must be registered by the State Bar. At the end of 2000, there were 5,963 registered law corporations and 1,567 LLP’s.

Lawyer Referral Services

Pursuant to Business and Professions Code Section 6155, the Office certifies entities that operate for the direct or indirect purpose of referring potential clients to attorneys in California. Currently, there are 57 certified lawyer referral services.

Legal Specialization

The Legal Specialization program certifies attorneys who specialize in the following areas of law: appellate; criminal; estate planning, trust and probate; family; immigration and nationality; personal and small business bankruptcy law; taxation; and workers' compensation. Exams in all areas are administered every two years. Certified specialists must recertify every five years. Currently, there are 3,558 certified legal specialists.

Practical Training of Law Students (“PTLS”)

This program certifies law students to provide legal services under the supervision of an attorney. In the year 2000, the office processed approximately 1,045 PTLS applications.

Pro Hac Vice and Out-of-State Attorney Arbitration Counsel (in cooperation with the local bar associations, “OSAAC”)

The Pro Hac Vice program assists the California judicial system by maintaining statewide records of out-of-state attorneys who make application to appear in California courts on particular cases in accordance with the requirements of Rule 983, California Rules of Court.

Pursuant to Rule 983.4, California Rules of Court, the OSAAC program maintains statewide records of certificates served on the State Bar by out-of-state attorneys seeking permission to represent a party in the course of, or in connection with, an arbitration proceeding in California.

In the year 2000, approximately 2,125 such records were filed with the State Bar.

Special Masters

Pursuant to Penal Code Section 1524, this program maintains a list of attorneys qualified to serve as special masters who can be appointed by courts of record. In an effort to improve the Special Masters program, which was assigned to the Office in 1999, the Office surveyed those entities using the Special Masters program, i.e., all state courts and offices of district attorneys, public defenders and attorneys general. A survey also was sent to attorneys currently on the list of special masters. Responses were received from 108 of the 192 special masters and from a representative number of courts and other interested parties.

The majority of both groups reported satisfaction with the current policies for administering the Special Master program. Entities in need of special masters, when surveyed as to whether they would like additional information on the background of attorneys appointed to the list of special masters (such as areas of practice, medical knowledge, foreign language skills, and specialized knowledge about computers and accounting), indicated that they would find such information useful. Those volunteering as special masters indicated that they would be willing to provide this information for release, upon request.

The Office also sponsored a presentation on the Special Masters program at the State Bar Annual Meeting. Panelists included a judge, a district attorney, a special master and a State Bar representative. An audiotape of the presentation was mailed to all special masters, along with additional materials on the Special Master program.

Based on its experience with the program, information gathered from the survey and a review of the current policies, the Office of Certification will recommend: (1) that the policies be institutionalized in rules and regulations in the same format as those governing the other programs administered by the Office; and (2) that attorneys applying to become special masters provide additional information that can be made available to the court upon request.

Minimum Continuing Legal Education (“MCLE”)

On August 26, 1999, the California Supreme Court upheld the constitutionality of California's MCLE program and the exemptions to it, overturning the California Court of Appeal decision in Warden v. State Bar. The Court of Appeal had ruled that California's program was unconstitutional on the basis

that some of the exemptions to the program (retired judges; officers and elected officials of the State of California; and full-time professors at ABA- or State Bar-accredited law schools) violated equal protection.

In September 1999, Governor Gray Davis signed SB 144 into law. Among other things, SB 144 amended Business and Professions Code Section 6070 to reduce from 36 to 25 the total number of MCLE hours required each three years, to reduce the eight hour ethics/law practice management requirement to four hours of ethics, and to remove the exemption for retired judges. The special requirements of one hour of prevention, detection and treatment of substance abuse and emotional distress and of one hour of elimination of bias in the legal profession were unchanged by the legislation. The changes to Business and Professions Code Section 6070 were effective January 1, 2000.

During the year 2000, the State Bar sent MCLE compliance cards to 130,000 of its members, including members whose MCLE hours had come due during a period of time when the program was in suspension pending the outcome of the Warden appeal, as well as members whose compliance periods end in 2000 and 2001. In addition to implementing the changes to the MCLE program contained in SB 144, the MCLE Evaluation Commission, appointed in 1999 to assess the MCLE program, surveyed the membership about MCLE and will report its findings and recommendations to the Board of Governors in 2001.

With the resumed enforcement of MCLE compliance, the Office saw a twenty-five percent increase in the number of applications filed for MCLE provider and activity approval (the number of applications increased from 1,700 in 1999 to 2,136 in the year 2000), and at the end of 2000 there were approximately 1,150 approved MCLE providers.

EDUCATION

The State Bar's numerous educational activities are scattered throughout a number of offices. Since the advent of continuing legal education requirements, the Bar has become one of the biggest MCLE providers in the state, offering hundreds of classes, seminars and workshops to attorneys annually to help them meet those requirements.

Section Education and Meeting Services

The Bar's 16 sections, each dealing with a specific area of law, have a membership of 55,680. Although originally established as a way of expanding professional contacts and increasing expertise, the sections have evolved into education entities.

Each section produces a quarterly newsletter, which keeps section members up to date on timely developments in the field and advertises upcoming MCLE programs and other activities sponsored by the section. The newsletters frequently include lengthy articles on issues of importance to practitioners in the field.

In 2000, the sections produced 189 education seminars and programs. The vast majority of programs were individually sponsored section events and the remainder were offered at one Section Education Institute in the Spring and at the Annual Meeting in September.

Nine sections - Litigation, Antitrust, Labor, Environmental, Business, Estate Planning, Intellectual Property, International Law and Real Property - held annual weekend programs offering education credit.

In addition, the Office of Section Education and Meeting Services acts as a central registry for all State Bar-sponsored continuing legal education programs, including those offered by the sections. In total, the office handled 369 MCLE programs in 2000.

GENERAL FUND AND MEMBERSHIP FEES

In 2000, the annual membership fee for active members was \$395. Members who demonstrated that their annual income from the practice of law was less than \$40,000 were eligible for a waiver of 25 percent of the annual membership fee and if their annual income from the practice of law was less than \$25,000 they were eligible for a waiver of 50 percent of the fee.

Most of the annual membership fee supports the State Bar's General Fund. A portion of the annual membership fee is assessed for the Client Security Fund (\$40) and for the Building Fund (\$10). The annual membership fee does not support the program for admission to membership in the State Bar, which is a self supported program. Voluntary programs are not supported by the annual membership fee, they are supported by voluntary contributions. The State Bar's General Fund provides resources to operate programs which serve both the public and the Bar's active and inactive members. These programs include the attorney disciplinary system, administration of justice, program development, and communications. The charts below show the allocations of membership fees to the general and administrative costs of mandatory programs supported by the fees.

GENERAL FUND		
2000 Actual Expenditures (Dollars in Thousands)		
Program	Amount	Percentage
Discipline	\$28,606	76.98%
Administration of Justice	564	1.52%
Governance	2,367	6.37%
Administration of the Profession	2,963	7.90%
Program Development	716	1.93%
Communications & CBJ	1,969	5.30%
TOTAL GENERAL FUND	\$37,158	100%

DISCIPLINE		
2000 Actual Expenditures (Dollars in Thousands)		
Sub-Program	Amount	Percentage
Office of Chief Trial Counsel	\$21,504	75.17%
State Bar Court	5,609	19.61%
Fee Arbitration Program	302	1.06%
Professional Competence	1,191	4.16%

TOTAL GENERAL FUND	\$37,158	100.00%
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LEGISLATIVE DEVELOPMENTS

A summary of major legislative developments relating to the State Bar and the legal profession in the years 1999 and 2000 is provided below:

AB 1420 - Approved by the Governor on August 24, 2000.

This Act amends Sections 6079.1, 6086.65, and 6140.16 of the Business and Professions Code re: the State Bar.

This Act does three things relating to the State Bar Court: First, it provides for applicants for appointment or reappointment as a State Bar Court judge to be screened and reviewed by an applicant evaluation committee as directed by the Supreme Court. Second, this bill provides that the standard to be applied by the Review Department of the State Bar Court in reviewing a decision, order, or ruling by a hearing judge of the State Bar Court fully disposing of a proceeding is established in Rule 951.5 of the California Rules of Court, or as otherwise directed by the Supreme Court. Third, this Act provides that appointment to the State Bar Court Hearing Department as a pro tempore judge shall be by the Supreme Court or the Board of Governors of the State Bar.

This Act also requires the State Bar to review its workload standards for its disciplinary activities, to submit a report on its review to the Legislature by June 30, 2001, and to use the workload standards to reassess the staffing requirements of the Bar's disciplinary activities.

AB 2567 - Approved by the Governor on August 24, 2000.

This Act amends Section 206 of the Code of Civil Procedure re: access to juries.

The new law provides that if, after more than 24 hours after a verdict in a criminal action, the prosecution or defense wants to discuss the verdict with a member of the jury, they must inform the juror of the name of the case, the party they represent, the subject of the interview, the right of the juror to discuss or not discuss the verdict or deliberation with the person, and, the right to review and have a copy of any declaration filed with a court.

AB 1858 - Approved by the Governor on September 24, 2000.

This Act amends Sections 22442.2 and 22445 and adds Section 6157.5 to the Business and Professions Code re: consumer protection.

This adds additional requirements to solicitation by lawyers in the area of Immigration and Naturalization. In advertising such services, the lawyer must include a statement that he or she is a member of the State Bar and is licensed to practice in the state. Law firms and corporations are required to affirm that all legal services are provided by or under the supervision of an active member of the State Bar. These statements must be in the same language as the ad.

However, ads in telephone and business directories are exempt as are members of public agencies and nonprofit entities registered with the Secretary of State. A violation of these requirements will serve as cause for disciplinary action by the State Bar.

The bill also expands regulation of “immigration consultants” who give non-legal assistance and advice in immigration matters. They are subject to criminal proceedings and increases current civil penalties to \$100,000 per violation in civil proceedings brought by anyone injured by such violation. They are now required to state in any advertisement for services that they are not a lawyer.

AB 2069 - Approved by the Governor on September 16, 2000.

This Act adds and repeals Section 6086.11 of the Business and Professions Code and amends Section 1714.10 of the Civil Code re: attorneys.

This Act requires the State Bar to conduct a study concerning the legal and professional responsibility issues that may arise out of a relationship between an attorney and an insurer when the attorney is retained to represent the insured and then subsequently retained to represent a party against another party insured by the insurer. A report of that study is to be submitted, with recommendations, to the Legislature and the State Supreme Court on or before July 1, 2001.

It also requires that in a civil conspiracy action filed by a party against an attorney that the attorney, rather than the party, raise as a defense at the first court appearance, that there is no ‘reasonable probability’ that the party will prevail in the action.

SB 1988 - Approved by the Governor on September 28, 2000.

This Act (1) amends Sections 650, 803.5 , 6106.5 and 6153 of the Business and Professions Code, (2) adds Sections 1003, 1004, 2220.6, 2417, and 6106.6 to the Business and Professions Code, (3) adds and repeals Article 10 (beginning with Section 9889.25) of Chapter 20.3, Division 3 of the Business and Professions Code, (4) amends Sections 750, 1872.1 and 1872.7 of the Insurance Code, (5) adds Section 758 to the Insurance Code, (6) adds Article 4.5 (beginning with Section 1874.85) and Article 4.6 (beginning with Section 1874.90) to Chapter 12 of Part 2 of Division 1 of the Insurance Code, (6) amends Sections 549 and 550 of the Penal Code, and, (7) adds Section 10904 to the Vehicle Code. All of these changes are in

regards to insurance fraud.

This Act (1) requires the Bureau of Automotive Repair to establish a pilot program to inspect insured cars that have had auto body repair to identify work not done to specifications in the final invoice; (2) requires that auto insurers inspect a statistical sampling of vehicles that had auto body repair to determine whether work paid for was appropriately done, (3) requires auto insurers to provide each insurer with an Auto Body Repair Consumer Bill of Rights; (4) increases the assessment per insurer to \$1300/year to fund the Bureau of Fraudulent Claims; (5) gives the Insurance Commissioner the authority to declare a region of the state as an auto insurance fraud crisis area; (6) requires that fines be doubled for certain fraud offenses committed in a crisis area; (7) increases penalties for violations by attorneys, chiropractors and physicians of laws relating to the use of runners, cappers etc. to procure patients or clients; (8) requires that licenses for physicians and chiropractors be revoked for ten years upon a second conviction or a conviction involving multiple counts for certain insurance fraud offenses; (9) prohibits conduct related to false or fraudulent insurance claims or statements and constitutes cause for the disbarment or suspension of an attorney; (10) applicable licensing boards will investigate licensees who have an information or indictment filed against them that alleges violations of provisions prohibiting conduct involving false or fraudulent insurance claims or statements, if the District Attorney does not object to starting an investigation; (11) with certain exceptions, any business holding itself out as an entity practicing medicine or that a reasonably informed person would believe is practicing medicine, should be owned and operated by physicians; (12) requires that the District Attorney inform the State Board of Chiropractic Examiners whenever a chiropractor is charged with a felony; and (13) requires that the provisions relating to the powers and duties of the State Board of Chiropractic Examiners be submitted to the voters for approval.

SB 1782 - Approved by the Governor on August 24, 2000.

The bill states the intent of the Legislature that the State Supreme Court adopt rules permitting attorneys who are licensed in other states to practice law in California even though they have not passed the general or Attorney's Bar examination. The bill requests the Supreme Court to appoint a task force to study and make recommendations regarding the issue.

SB 2153 - Approved by the Governor on September 29, 2000.

This Act amends Sections 639 and 1282.4 of the Code of Civil Procedure re: civil proceedings, referees and arbitrators.

The Act requires that a motion to disqualify a referee appointed for discovery matters, be made (1) within ten days after notice of the appointment, or, if there have been no appearances as yet

by a party, within ten days after the appearance, or, (2) at least five days before the hearing date, provided that the referee is known at least ten days before the hearing date and the discovery referee has been assigned for limited discovery purposes. The order appointing a discovery referee should indicate whether the referee is being appointed for all discovery purposes.

This bill also extends to January 1, 2006, provisions relating to out of state attorneys representing clients in arbitrations in California, the service of required certificates before the first arbitration hearing, and rendering legal services in this state in connection with an out of state arbitration.

AB 1761 - Approved by the Governor on September 13, 2000.

This Act adds Chapter 5.6 (beginning with Section 6450) to Division 3 of the Business and Professions Code and repeals Section 6450 of the Business and Professions Code re: paralegals.

This Act establishes the qualifications to practice as a “paralegal” in the state including the completion of MCLE credits both in the general law and in legal ethics; makes it unlawful to hold oneself out to be a paralegal unless qualifications are met and work is performed under the supervision of an active member of the Bar. It holds paralegals to the same confidentiality requirements as an attorney, and makes it unlawful for paralegals to perform any services for a consumer, unless directed by the attorney or entity employing or contracting with the paralegal. It also prohibits paralegals from giving advice, representing a client in court or serving as a runner or capper. The attorney using the services of the paralegal is liable for the paralegal’s misconduct or negligence. Attorneys fees can be recovered in a civil action for violation of this Act.

SB 143 - Approved by the Governor on July 28, 1999.

The Act amends Sections 6068 and 6085 of the Business and Professions Code; amends, repeals and adds Sections 6079.1 and 6086.65 to the Business and Professions Code and adds Section 6095.1 to the Business and Professions Code re: attorneys.

The 1999 Act does four things: First, in cooperating with a disciplinary investigation, an attorney is not required to honor a request that requires him or her to waive any constitutional or statutory privilege or comply with a request for information in an unreasonable amount of time. The exercise of these rights shall not be used against the attorney in a regulatory or disciplinary proceeding . Second, the Act enlarges notice and opportunity requirements with regard to attorneys who are complained against. In addition to reasonable notice and opportunity, both must also be fair and adequate. It would also specify defense rights such as the right against self-

incrimination and the right to exercise any right guaranteed by the State and/or U.S. Constitution. Third, it requires the State Bar to compile disciplinary statistics on who is prosecuted and submit a report by June 30, 2001 to the Judiciary Committees of the state Legislature, requires that disciplinary process procedures are used so that the Bar resources are used fairly and equitably in all investigations and prosecutions, that disciplinary proceedings not be disproportionate to the number of solo, small firm or partnership practitioners as compared to those in large firms. The report cannot be used as a mitigating or defense factor in disciplinary proceedings against an attorney. Fourth, it requires that appointments to the State Bar Court be made by the state Supreme Court, the Governor, Senate Rules Committee and Speaker of the Assembly. It also revises the provision authorizing the Board of Governors to provide a rule on reviewing decisions other than those of the Review Department.

SB 72 - Approved by the Governor on September 21, 1999.

This 1999 Act adds Article 10.5 (beginning with Section 6175) to Chapter 4 of Division 3 of the Business and Professions Code re: financial services for lawyers.

The Act authorizes lawyers, while acting as a fiduciary, to sell financial services to elder or dependent clients with whom they have had an attorney-client relationship within the previous three years, provided that the client believes the transaction is fair and reasonable and written disclosure by the attorney is made which includes information about the product and includes the terms of the proposed transaction. An injured client may sue for civil damages and other civil remedies. An additional award is contemplated should certain conditions be met. A violation of these provisions would be cause for discipline by the Bar.

AB 2107 - Approved by the Governor on September 13, 2000.

This Act adds Section 6177 to the Business and Professions Code; amends and renumbers Section 10193 of the Insurance Code, amends Section 10234.8 of the Insurance Code and amends Section 15610.30 of the Welfare and Institutions Code re: elder abuse.

The Act broadens existing law by imposing the duties of honesty, good faith and fair dealing on all insurers, brokers, agents and others in the business of Medicare supplemental insurance and long term care insurance with respect to prospective policyholders. In addition, after July 1, 2001, only life agents, may sell or offer for sale to an elder or their agent any financial product on the basis of its treatment under Medi-Cal. A specified disclosure, in writing, must be provided to the elder or their agent, explaining the resource and income requirements of the Medi-Cal program. Excluded from the application of these disclosure provisions is credit life insurance. The Bar must report to the Legislature by December 31 of each year on the provision of financial services to elders by attorneys. Report will include the number of complaints filed, investigations initiated, type of charges made and the number and nature of disciplinary actions taken by the Bar. The Act also revises the definition of financial abuse for reporting and

investigation purposes of elder and dependent adult abuse.

AB 2810 - Approved by the Governor on September 8, 2000.

This Act amends Sections 6400, 6402, 6403 and 6404 of the Business and Professions Code re: legal document and unlawful detainer assistants.

All legal document and unlawful detainer assistants must register in the county of their principal place of business and in any other county where they provide services and registration is required. The applicant must specify on their application whether they are applying for primary or secondary registration. The bond accompanying the registration would be in favor of the State of California for persons damaged by acts of those who register. Secondary registrants must include with their application a certified copy of the bond or cash deposit posted in the county where they registered initially.

The Act would also incorporate the changes proposed by SB 1927 only if both bills are enacted and become operative.

SB 1927 -Vetoed by the Governor on September 7, 2000. As of October 2, 2000, it went back to the State Senate as unfinished business.

The Act would amend Sections 6405 and 6408 of the Business and Professions Code re: legal document assistants.

This Act reduces the amount of the bond an applicant seeking registration must pay from \$25,000 to \$5,000 if their practice is limited solely to assisting either party in Small Claims actions in Riverside County.

GLOSSARY

Admonition

A written non-disciplinary reprimand issued by the Office of the Chief Trial Counsel or the State Bar Court pursuant to Rule 264, Rules of Procedure of the State Bar of California.

Agreement in Lieu of Discipline

An agreement between the member and the Office of the Chief Trial Counsel in lieu of disciplinary prosecution, pursuant to Business and Professionals Code sections 6068(l) and 6092.5(i).

Backlogged complaints

Complaints that have been pending in investigation longer than six full months from the date of receipt (12 months for complex cases) without dismissal, admonition of the member involved or the forward of a completed investigation for prosecution.

Complaint

A communication which is found to warrant an investigation of alleged misconduct of a member which, if the allegations are proven, may result in discipline of the member.

Complaint - held

A complaint for which a status of the case has been completed, reviewed and approved and

which is being held pending receipt of remaining Statements of the Case [see below] on the same member.

Complaint - in abeyance

A complaint temporarily not being worked on for a specific reason, such as pending acceptance of an attorney's resignation by the Supreme Court.

Complaint - open

A complaint being worked on.

Conviction referral

A formal disciplinary proceeding following an attorney's criminal conviction commenced by a referral order from the State Bar Court Review Department directing the Hearing Department to hold a hearing, file a decision and recommend the discipline to be imposed, if any, or take other action on the issue or issues stated in the order.

Directional Letter

A Directional Letter may be issued where there is the potential for future violation if the conduct is not corrected.

Disbarment

A disciplinary action that prohibits an attorney from practicing law in the state. The attorney's name is stricken from the Roll of California Attorneys.

Dismissal

A proceeding closed by the Office of the Chief Trial Counsel or the State Bar Court for a specific reason, such as no merit or insufficient evidence.

Finality Rules

California Supreme Court Rules that empower the State Bar Court to handle a number of matters - including placing convicted attorneys on interim suspension in appropriate instances -

that formerly were Supreme Court responsibilities. The Rules also provide that, when a member does not request Supreme Court review after pursuing a State Bar Court appeal, the State Bar Court's recommendations are adopted by the Supreme Court as its final order unless the high court decides on its own to review the case.

Inquiry

A communication concerning the conduct of a member of the State Bar received by the Office of the Chief Trial Counsel which is designated for evaluation to determine if any action is warranted by the State Bar.

Involuntary Inactive Enrollment

The transfer of an attorney to inactive status (1) after the attorney is judged to present a substantial threat of harm to clients or the public, or (2) after the attorney is judged to be unable to practice without danger to clients or the public because of a disability, or (3) for other reasons allowed by state law. An attorney on inactive status cannot practice law.

Notice of Disciplinary Charges

A document filed in State Bar Court containing formal charges against a member.

Private Reprimand

A censure or reprimand issued by the Supreme Court or the State Bar Court which is not a matter of public record unless imposed after the initiation of formal disciplinary proceedings. The reprimand may be imposed with duties or conditions.

Pro tempore hearing judges

A panel of specially trained lawyers or retired judges who serve as judges of the State Bar Court Hearing Department on a temporary, as-needed basis.

Probation

A status whereby an attorney retains the legal ability to practice law subject to terms, conditions and duties for a specified period of time.

Public Reprimand

A censure or reprimand issued by the Supreme Court or the State Bar Court which is a matter of public record. The reproof may be imposed with duties or conditions.

Reinstatement

Readmission by the Supreme Court to the practice of law and to membership in the State Bar of a former member who resigned or was disbarred. The former member must demonstrate rehabilitation and present moral qualifications as well as ability and learning in the law.

Request for Further Proceedings

A request from a complaining witness after being advised that the complaint has been dismissed or the member has been admonished.

Resignation Tendered with Charges Pending

A written relinquishment of the right to practice law and resignation as a member of the State Bar by a member against whom disciplinary charges are pending. Supreme Court acceptance of a resignation is required to make it effective, but as soon as a member submits a resignation in proper form, the member is transferred to inactive status and cannot practice law.

Resource Letter

A Resource Letter may be issued where there is a probable violation or a potential for a future violation of the Rules of Professional Conduct and/or the State Bar Act which is minimal in nature and would not lead to discipline of the member. The member is referred to various resources which may assist the member in avoiding future problems and/or the filing of complaints against him or her in the future.

Statement of the Case

An investigator's written report of information and evidence submitted to an Office of the Chief Trial Counsel attorney for further action.

Stipulation

A agreement between the member and the Office of the Chief Trial Counsel regarding a

statement of facts, conclusions and/or disposition filed by the Office of the Chief Trial Counsel in the State Bar Court.

Suspension

A disciplinary action that prohibits an attorney from practicing law or from holding himself or herself out as a lawyer for a period of time set by the California Supreme Court.

Termination

A proceeding closed due to an external cause, such as death of the member, disbarment in a separate matter or resignation with charges pending.

Warning Letter

A Warning Letter may be issued when there is a probable violation of the State Bar Act or the Rules of Professional Conduct which is minimal in nature, does not involve significant harm to the client or the public and does not involve the misappropriation of client funds.